

RESOLUTION NO. 19158

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, FORMING AND ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 97-1 (OPEN SPACE MAINTENANCE DISTRICT [OTAY RANCH - SPA ONE, VILLAGES 1 & 5]) AND AUTHORIZING SUBMITTAL OF LEVY OF SPECIAL TAXES TO THE QUALIFIED ELECTORS

WHEREAS, a public hearing has been held and concluded, and the City Council of the City of Chula Vista (the "City Council"), is desirous at this time to proceed with the establishment of a community facilities district, pursuant to the terms and provisions of the "Mello-Roos Community Facilities Act of 1982," being Chapter 2.5, Part 1, Division 2, Title 5 of the Government Code of the State of California (the "Act") and the City of Chula Vista Community Facilities District Ordinance enacted pursuant to the powers reserved by the City of Chula Vista under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California (the Ordinance) (the Act and the Ordinance may be referred to collectively as the Community Facilities District Law). Such Community Facilities District shall hereinafter be referred to as COMMUNITY FACILITIES DISTRICT NO. 97-1 (OPEN SPACE MAINTENANCE DISTRICT [OTAY RANCH - SPA ONE, VILLAGES 1 & 5]) (the "District"); and

WHEREAS, this legislative body has further declared its intent that the authorized public services be financed through the levy of special taxes; and

WHEREAS, at any time before or after the formation of the District, this legislative body may accept advances of funds and/or work in kind from any source; however, no reimbursement and/or repayment shall be made for said advances until expressly set forth by agreement and/or Resolution of this legislative body setting forth the amount, terms and conditions for any reimbursement and/or repayment; and

WHEREAS, all communications relating to the establishment of the District, the proposed services and the proposed rate and method of apportionment of the special tax have been presented, and it has further been determined that a majority protest as defined by law has not been received against these proceedings.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

RECITALS

SECTION 1. The above recitals are all true and correct.

FINDINGS AND DETERMINATIONS

SECTION 2. All findings and determinations of this legislative body made in that certain Resolution entitled "RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA, MAKING CERTAIN PRELIMINARY FINDINGS, PASSING UPON PROTESTS AND APPROVING THE SPECIAL TAX REPORT FOR COMMUNITY FACILITIES DISTRICT NO. 97-1 (OPEN SPACE MAINTENANCE DISTRICT [OTAY RANCH - SPA ONE, VILLAGES 1 & 5])" are incorporated herein as if set forth at this point.

FINAL REPORT

SECTION 3. The Special Tax Report, as now submitted, shall stand as the Special Tax Report for all future proceedings and all terms and contents are approved as set forth therein.

NAME OF DISTRICT

SECTION 4. This legislative body does hereby establish and declare the formation of the Community Facilities District known and designated as "COMMUNITY FACILITIES DISTRICT NO. 97-1 (OPEN SPACE MAINTENANCE DISTRICT [OTAY RANCH - SPA ONE, VILLAGES 1 & 5])."

BOUNDARIES OF DISTRICT

SECTION 5. The boundaries and parcels of land in which the public service are to be provided and on which special taxes will be levied in order to pay the costs and expenses for said public services and public facilities are generally described as follows:

All property within the boundaries of COMMUNITY FACILITIES DISTRICT NO. 97-1 (OPEN SPACE MAINTENANCE DISTRICT [OTAY RANCH - SPA ONE, VILLAGES 1 & 5]) as shown on a boundary map as previously approved by this legislative body, said map designated by the name of this Community Facilities District, a copy of which is on file in the Office of the City Clerk, known as Document No. CO98-141, Exhibit A. The boundary map of the proposed District has been filed pursuant to Sections 3111 and 3113 of the Streets and Highways Code of the State of California in the Office of the County Recorder of the County of San Diego, at Page 49 of Book 32 of the Book of Maps of Assessment and Community Facilities Districts for said County.

DESCRIPTION OF SERVICES

SECTION 6. The proposed services to be provided to serve the District are generally described as follows:

The maintenance and servicing of public facilities including irrigation, cultivation, installation and replacement of plant material, tree trimming and necessary supplies, personnel, utility and equipment costs; contract services where applicable; maintenance and servicing of parks, parkway landscaping and medians, drainage facilities, pedestrian bridges and open space slopes, trails and walls.

For a full and complete description of the public services, reference is made to the final Special Tax Report, a copy of which is on file in the Office of the City Clerk, known as Document CO89-141. For all particulars, reference is made to said Special Tax Report.

SPECIAL TAX

SECTION 7. Except where funds are otherwise available a special tax, secured by recordation of a continuing lien against all non-exempt real property in the proposed District, is hereby authorized, subject to voter approval, to be levied annually within the boundaries of

said District. The proposed special tax to be levied within said District has not been precluded by majority protest pursuant to Section 53324 of the Government Code of the State of California. For particulars as to the rate and method of apportionment of the proposed special tax (the "Special Tax Formula") which is on file in the Office of the City Clerk, known as Document No. CO98-141, Section 4, which sets forth in sufficient detail the method of apportionment to allow each landowner or resident within the proposed District to estimate the maximum amount that said person will have to pay. Said special tax shall be utilized to pay for the Special Tax Liability of the District as such term is defined in the Special Tax Formula.

The special taxes herein authorized shall be collected in the same manner as ad valorem property taxes and shall be subject to the same penalties, procedure, sale and lien priority in any case of delinquency, as applicable for ad valorem taxes; however, as applicable, this legislative body may, by resolution, establish and adopt an alternate or supplemental procedure as necessary. Any special taxes that may not be collected on the County tax roll shall be collected through a direct billing procedure by the Treasurer of the City of Chula Vista, acting for and on behalf of the District.

Upon recordation of a Notice of Special Tax Lien pursuant to Section 3114.5 of the Streets and Highways Code of the State of California, a continuing lien to secure each levy of the special tax shall attach to all non-exempt real property in the District and this lien shall continue in force and effect until the special tax obligation is prepaid and permanently satisfied and the lien canceled in accordance with law or until collection of the tax by the legislative body ceases.

PREPARATION OF ANNUAL TAX ROLL

SECTION 8. The name, address and telephone number of the office, department or bureau which will be responsible for preparing annually a current roll of special tax levy obligations by Assessor's parcel number and which shall be responsible for estimating future special tax levies pursuant to Section 53340.1 of the Government Code of the State of California, are as follows:

FINANCE DEPARTMENT
CITY OF CHULA VISTA
276 FOURTH AVENUE
CHULA VISTA, CA 91910

APPEALS AND INTERPRETATION PROCEDURE

SECTION 9. Any landowner or resident who feels that the amount of the special tax levied against his or her property or the Special Tax Formula as applied to his or her property is in error may file a notice with the City Council appealing the levy of the special tax. An appeals panel of three members, as appointed by the City Council, will then meet and promptly review the appeal, and if necessary in the determination of the appeals panel, such panel may meet with the appellant. If the findings of the appeals panel verify that the special tax should be modified or changed, a recommendation at that time will be made by the appeals panel to the City Council and, as appropriate, the City Council may order that the special tax levy be corrected, and if applicable in any case, a refund shall be granted.

Interpretations may be made by the City Council by Resolution for purposes of clarifying any vagueness or ambiguity as it relates to any category, zone, rate or definition applicable to these proceedings.

ELECTION

SECTION 10. This legislative body herewith submits the levy of the special tax to the qualified electors of the District, said electors being the landowners of the proposed District, with each landowner having one (1) vote for each acre or portion thereof of land which he or she owns within the Community Facilities District.

This legislative body hereby further directs that the ballot proposition relating to the levy of the above referenced special tax be combined and consolidated with the proposition set forth in Section 11 below relating to the establishment of an appropriations limit for the District.

The proposition related to the levy of the special tax shall, together with a proposition to establish an appropriations limit for the District, shall be submitted to the qualified voters at a special election to be held on THE EARLIEST OF THE FOLLOWING : (a) DECEMBER 1, 1998, (b) THE TENTH BUSINESS DAY FOLLOWING THE DATE UPON WHICH THE CITY IS NOTIFIED OF THE CLOSE OF THE EXCHANGE OF A CERTAIN PORTION OF ASSESSOR'S PARCEL NO. 642-071-12 FROM OTAY PROJECT, LLC-OVP TO McMILLIN - D.A. AMERICA AND A CERTAIN PORTION OF ASSESSOR'S PARCEL NO. 642-100-01 FROM McMILLIN - D.A. AMERICA TO OTAY PROJECT, LLC-OVP, OR (c) SUCH OTHER DATE AS THE QUALIFIED ELECTORS AND THE CITY CLERK MAY MUTUALLY AGREE and said election shall be a special election to be conducted by the City Clerk (hereinafter referred to as the "Election Official"). If the proposition for the levy of the special tax receive the approval of more than two-thirds (2/3) of the votes cast on the proposition the special tax may be levied as provided for in this Resolution.

BALLOT

SECTION 11. The ballot proposals to be submitted to the qualified voters at the election shall generally be as follows:

PROPOSITION A

Shall COMMUNITY FACILITIES DISTRICT NO. 97-1 (OPEN SPACE MAINTENANCE DISTRICT [OTAY RANCH - SPA ONE, VILLAGES 1 & 5]) of the City of Chula Vista be authorized to levy special taxes thereof pursuant to the rate and method of apportionment of special taxes (the "Special Tax Formula") set forth in Resolution No. _19158 to finance the Special Tax Liability as defined in the Special Tax Formula?

PROPOSITION B

Shall COMMUNITY FACILITIES DISTRICT NO. 97-1 (OPEN SPACE MAINTENANCE DISTRICT [OTAY RANCH - SPA ONE, VILLAGES 1 & 5]) of the City of Chula Vista establish an Article XIII B appropriations limit equal to \$1,783,088.00?

VOTE

SECTION 12. The appropriate mark placed in the voting square after the word "YES" shall be counted in favor of the adoption of the proposition, and the appropriate mark placed in the voting square after the word "NO" in the manner as authorized, shall be counted against the adoption of said proposition.

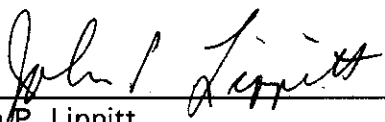
ELECTION PROCEDURE

SECTION 13. The Election Official is hereby authorized to take any and all steps necessary for holding the above election. The Election Official shall perform and render all services and proceedings incidental to and connected with the conduct of the election, including but not limited to, the following:

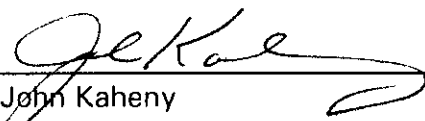
1. Prepare and furnish to the necessary election supplies for the conduct of the election.
2. Cause to be printed the requisite number of official ballots, tally sheets and other necessary forms.
3. Furnish and address official ballots for the qualified electors of the Community Facilities District.
4. Cause the official ballots to be mailed and/or delivered, as required by law.
5. Receive the returns of the election and supplies.
6. Sort and assemble the election material and supplies in preparation for the canvassing of the returns.
7. Canvass the returns of the election.
8. Furnish a tabulation of the number of votes given in the election.
9. Conduct and handle all other matters relating to the proceedings and conduct of the election in the manner and form as required by law.

Presented by

Approved as to form by



John P. Lippitt
Director Public Works



John Kaheny
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 15th day of September, 1998, by the following vote:

AYES: Councilmembers: Padilla, Rindone, Salas and Horton

NAYS: Councilmembers: None

ABSENT: Councilmembers: None

ABSTAIN: Councilmembers: Moot



Shirley Horton, Mayor

ATTEST:



Beverly A. Authelet, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Beverly A. Authelet, City Clerk of Chula Vista, California, do hereby certify that the foregoing Resolution No. 19158 was duly passed, approved, and adopted by the City Council at a regular meeting of the Chula Vista City Council held on the 15th day of September, 1998.

Executed this 15th day of September, 1998.



Beverly A. Authelet, City Clerk